

RESPONSE TO RESTRICTION REQUIREMENT

U.S. Serial No.: 09/496,771

Filed: February 3, 2000

- Group I      claims 1-3, 17, 18, 40-43, 47-50, 53, 57, 62-65 and 77, drawn to calcium phosphate particles complexed with antigenic viral proteins, methods for making said particles, methods of adjuvanting vaccines and methods for providing controlled release using said particles;
- Group II     claims 1-2, 19-20, 43, 47-50, 53, 57, 63 and 77, drawn to calcium phosphate particles complexed with antigenic bacterial proteins, methods for making said particles, methods of adjuvanting vaccines and methods for providing controlled release using said particles;
- Group III    claims 1-2, 21-23, 43, 47-50, 53, 57, 63 and 77, drawn to calcium phosphate particles complexed with antigenic fungal proteins, methods for making said particles, methods of adjuvanting vaccines and methods for providing controlled release using said particles;
- Group IV    claims 1-2, 4, 9, 24, 25, 47-50, 54, 58, 66 and 77, drawn to calcium phosphate particles complexed with antigenic immunoenhancers, methods for making said particles, methods of adjuvanting vaccines and methods for providing controlled release using said particles;
- Group V     claims 1-2, 5, 10, 26-34, 44, 47-50, 55, 59-60, 67-60 and 77, drawn to calcium phosphate particles complexed with polynucleotides, methods for making said particles, methods of adjuvanting vaccines and methods for providing controlled release using said particles;
- Group VI    claims 1-2, 6, 11, 36-39, 45-50, 56, 61 and 71-77, drawn to calcium phosphate particles complexed with therapeutic proteins or peptides, methods for making said particles and methods for delivering said particles; and
- Group VII   claims 1-2, 7-8, 12-16, 47-52 and 77, drawn to calcium phosphate particles complexed with surface modifying agent and methods for making said particles.

Applicants elect the invention of Group I, with traverse.

Applicants respectfully submit that the restriction requirement should be withdrawn. The Examiner asserts that restriction is proper because the inventions of

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Groups I-VII are separate and distinct as comprising different biochemical and immunological entities having different properties and uses.

However, the presence of the claims of Groups I-VII does not impose an undue burden on examination. The features differentiating each Group are introduced as further limitations to generic claim 1. To the extent that the Examiner is requiring Applicants to elect between different species of the invention of claim 1, Applicants highlight the fact that the claims of each species contain all limitations of claim 1. If claim 1 is found to be patentable, the claims of Groups I-VII must also be patentable. According to MPEP § 806.04(d), if a generic claim is allowed, all of the claims drawn to species in addition to the elected species which include all limitations of the generic claim are allowable in view of the allowance of the generic claim.

Moreover, Applicants respectfully direct the Examiner's attention to claim 3, which recites an antigenic material at least partially coating or impregnating the particle. Because claims 17<sup>1</sup>, 19<sup>2</sup>, and 21<sup>3</sup> all depend upon claim 3, claim 3 is also a generic or linking claim for Groups I-III. Accordingly, the presence of Groups I-III in a single application does not impose an undue burden on examination. If claim 3 is

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<sup>1</sup> reciting antigenic material comprising one or more immunogenic portions of a protein coat, protein core, or functional proteins and peptides of a virus.

<sup>2</sup> reciting antigenic material comprising one or more immunogenic proteins obtained from bacteria.

<sup>3</sup> reciting antigenic material comprising one or more immunogenic proteins obtained from fungi.

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found to be patentable, the claims of Groups I-III must also be patentable. Therefore, Applicants further respectfully submit that the presence of the claims of Groups I-III does not impose any undue burden on the examination.

An early and favorable action on the merits is earnestly solicited. Please charge any fees or credit any overpayment to Deposit Order Account No. 11-0855.

Respectfully submitted,



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